

REMARKS

Entry of this Amendment and reconsideration are respectfully requested in view of the amendments made to the claims and for the remarks made herein.

Claims 1-14 are pending and stand rejected.

Claims 1, 2, and 5-13 have been amended.

Claim 1 is the single independent claim.

The listing of references in the Search Report is not considered to be an Information Disclosure Statement. The Drawings are objected-to for not including references mentioned in the specification. The Specification is objected to for containing informalities. Claims 1-11 are objected to for including informalities. Claims 12-14 stand rejected under 35 USC 112, second paragraph for being indefinite. Claims 1-4 and 9-11 stand rejected under 35 USC 102(b) as being anticipated by Adachi (WO 02/069031 or USPPA 2004/0100598). Claims 5-6 and 12 stand rejected under 35 USC 103(a) as being unpatentable over Adachi in view of Horsten (WO 03/079318). Claims 7-8 and 13-14 stand rejected under 35 USC 103 over Adachi in view of Horsten and further in view of Vetere (USP no. 2, 991, 697). Claims 1, 2, 4 and 5 are provisionally rejected on the ground of non-statutory obviousness-type double patenting over claim 4 of co-pending application no. 10/597,065.

Applicant respectfully disagrees that the information provided in the Search Report is presented in a form not suitable for being considered by the Examiner merely because the form of submission and the Office Action has utilized the teaching of the submitted documents in rejecting the claims.

However, in order to advance the prosecution of this matter, applicant has provided herewith an Information Disclosure Statement in a form, listing the documents recited in the Search Report. As the documents recited in the Search Report have already been physically provided to the Office previously, the documents are not provided herein.

The Drawings are objected-to for

not including references mentioned in the specification.

Applicant respectfully disagrees with and explicitly traverses the objection to the drawings. However, applicant submits, herewith, amended Figure 1 providing corrections for the label 3' (Figure 1).

With regard to the elements 20' and 20", these labels have been removed from the specification and, thus, need not be shown in the drawings.

The Specification is objected to for containing informalities with regard to:

- 1.) not including section headings;
- 2.) the description of Figure 3, should refer to Figures 3a and 3b; and
- 3.) the description of Figure 4 should refer to Figure 4.

Applicant thanks the Examiner for his observation and has amended the specification to correct the reference to Figures 3 and 4.

With regard to the objection to the Specification for not including section headings, applicant respectfully submits that 37 CFR §1.77(b) discloses a *suggested* format for the arrangement of the disclosure. Applicant respectfully submits that the present disclosure follows the suggested format where applicable. With regard to 37 CFR§1.77(c), which was not cited in the Office Action, Applicant respectfully submits that section headings are suggested but not required, as 37 CFR §1.77(c) clearly states the sections defined in paragraphs (b) (1) through (b) (11) "should" be preceded by a section heading. Applicant respectfully declines to amend the disclosure to include the suggested headings at this time.

Claims 1-11 are objected to for including informalities.

Applicant thanks the Examiner for his observation and has amended claims 1, 8, 11 and 13 in accordance with the suggested amendments recited in the Office Action.

Claims 12-14 stand rejected under 35 USC 112, second paragraph for being indefinite.

Applicant thanks the Examiner for his observation and has amended 12 in accordance with the suggested amendments

recited in the Office Action.

Claims 1-4 and 9-11 stand rejected under 35 USC 102(b) as being anticipated by Adachi (WO 02/069031 or USPPA 2004/0100598).

Applicant respectfully disagrees with and explicitly traverses the rejection of the claim. However, in order to advance the prosecution of this matter, applicant has elected to recite the invention claimed in better form. More specifically, claim 1 has been amended to further recite the elements of "a foil on a non-viewing side of said mirror, said foil being orientated at a known angle with respect to said first kind of polarization" and "the foil and the absorbing layer comprise a retarder layer causing rotation of said light over a known number of degrees." No new matter has been added. Support for the amendment may be found at least on page 5, lines 30-32, and page 6, lines 18-23.

Adachi discloses a device capable of switching between a image display status and a mirror status comprising an absorbing polarization selection member 500, a variable polarization liquid display 400, a reflective polarization selection member 300, and a display portion including an absorbing polarization layer 208 (see figure 1, and para. [0068]-[0071]). The polarization layer 208 provides for the transmission of a light with a first polarization as does the polarization layer 300 (see [0069]). Polarization layer 500 is disposed to absorb a first polarization and transmit a second linear polarization. (see para. [0071]).

Adachi further discloses that the viewer views the display device from the absorbing polarization selection member 500 (left side of the page of Figure 1). (see para. [0072]). Thus, element 500 is comparable to the polarizing mirror cited in the instant application.

Adachi further discloses a switch 813 that enables a voltage to be applied to or removed from display 400 to place the reflective/transmission properties of display 400 in one state or another.

Adachi fails to disclose a foil on a non-viewing side of said mirror, said foil being orientated at a known angle with respect to said first kind of polarization, as is now

recited in the claims.

A claim is anticipated if each of the elements of recited in the claim is disclosed by a single prior art reference.

Adachi cannot be said to anticipate the invention claimed as Adachi fails to disclose a material element recited in the claims. That is, Adachi discloses an active display for providing a polarization level and fails to disclose a foil as is recited in the claims.

In addition, Adachi discloses that element 500 transmits light of a second polarization toward element 400 and display 100 transmits light of a first polarization toward element 400. However, in the invention recited in claim 1, the polarization mirror, which is comparable to element 500 of Adachi, transmits a light of a second polarization toward the absorbing layer and display 11 also transmits a light of a second polarization toward the absorbing layer.

Hence, Adachi fails to also disclose that the absorbing layer is responding to the same polarization whether from one side or the other.

Accordingly, claim 1 and the claims dependent, therefrom, are not anticipated as the cited reference fails to disclose all the elements recited in the independent claims.

Claims 5-6 and 12 stand rejected as being unpatentable over Adachi in view of Horsten (WO 03/079318). Claims 7-8 and 13-14 stand rejected under 35 USC 103 over Adachi in view of Horsten and further in view of Vetere (USP no. 2, 991, 697).

With regard to the aforementioned claims, each of these claims depends from claim 1, which has been shown to include subject matter not disclosed by Adachi. The other cited references fail to provide any teaching to correct the deficiency in the teaching of Adachi.

As noted above, Adachi provides light with one polarization from the viewing side (element 500) and a different polarization from the display side, which has been shown to be different than that described in the instant invention. Hence, even if Horsten could be said to provide a same polarization from the viewing side and the display side, the incorporation of the teaching of Horsten into that of Adachi, the operation of Adachi

would be altered.

Accordingly, one skilled in the art would not be motivated to incorporate the teachings of Horsten into Adachi as the basic operating principles of Adachi would be changed.

A claimed invention is *prima facie* obvious when three basic criteria are met. First, there must be some suggestion or motivation, either in the reference themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine the teachings therein. Second, there must be a reasonable expectation of success. And, third, the prior art reference or combined references must teach or suggest all the claim limitations.

The combination of Adachi and Horsten fails to render obvious the invention recited in the aforementioned claims as the combination fails to include all the elements recited in the claims or, even the teaching of Horsten were including to the device of Adachi, the combination would alter the principles of the Adachi device and may without additional alterations render the combined device unsuitable for its intended purpose.

Having shown that the combined device resulting from the teachings of the cited references fail to include all the elements of the present invention, applicant submits that the rejection of the subject matter recited in aforementioned claims has been overcome.

With regard to the provisional rejection of the claims under the judicially created doctrine of double-patenting over claim 4 of co-pending patent application serial no. 10/597,065, applicant respectfully requests that this rejection be held in abeyance until such time that either the instant application or the referred to application issue as a US patent and then the claims in the remaining application may be compared to the issued claims to determine the scope of the claims and whether any overlap in the scope of the claims exists.

For the amendments made to the claims and for the remarks made herein, applicant submits that all the objections and rejections have been overcome and that the claims are in a condition for allowance. It is respectfully requested that a Notice of Allowance be issued.

Should the Examiner believe that the disposition of any issues arising from this response may be best resolved by a telephone call, the Examiner is invited to contact applicant's representative at the telephone number listed below.

Respectfully submitted,

Date: December 14, 2008

/Carl A. Giordano/
By: Carl A. Giordano
Attorney for Applicant
Registration No. 41,780

Mail all correspondence to:

Daniel Piotrowski, Registration No. 42,079
US PHILIPS CORPORATION
P.O. Box 3001
Briarcliff Manor, NY 10510-8001
Phone: (914) 333-9608
Fax: (914) 332-0615

CERTIFICATE OF MAILING UNDER 37 C.F.R. §1.8(a)

The undersigned hereby certifies that this document is being

☐ Transmitted by facsimile to 571 273 8300;

☐ Placed with the US Postal Service with First Class postage attached to the address indicated above;
on December _____ 2008.

Print Name

Signature